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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
PORTLAND DIVISION

MARK WILSON

Plaintiff,

v.

JERRY PLANTE, RONNIE FOSS, CRAIG  
PRINS, JOSH HIGHBERGER, MELISSA  
NOFZIGER, COLLETTE PETERS, MARIA D.  
GARCIA, and JOHN DOES 1-10.

Defendants.

Case No. 6:21-cv-01606-SI

PLAINTIFF'S MOTION FOR LEAVE TO  
FILE A SUR-REPLY

*Opposed*

**LR 7-1 Certification**

Pursuant to LR 7-1, plaintiff conferred with defendants' counsel, Shannon Vincent, who on behalf of Defendants does oppose this motion.

**Motion**

Plaintiff moves this Court for leave to file a sur-reply to *Reply in Support of Defendants’ Partial Motion to Dismiss Plaintiff’s Second Amended Complaint*. ECF No. 53. This motion is supported by the attached *Declaration of Juan Chavez*. In their Reply, Defendants raise new arguments regarding the application of *Heck v. Humphrey*, 512 U.S. 477 (1992) and provided other authorities not presented in Defendants’ Partial Motion to Dismiss Plaintiff’s Second Amended Complaint. ECF No. 53. As Defendants bore the burden of proving that a *Heck* preclusion applied, by not formulating these theories in their initial briefing, Plaintiff needs to be able to address the new issues raised in Defendants’ Reply brief in a sur-reply. Plaintiff has included a draft of his Sur-Reply as Exhibit 1.

Based on the foregoing, Plaintiff respectfully requests leave to file Exhibit 1 as a Sur-Reply to Defendants’ Motion for Partial Dismissal.

Dated May 25, 2022.

Respectfully submitted,

/s/ Juan Chavez  
Juan Chavez, OSB #136428  
Attorney for Plaintiff